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EX PARTE Hickman et al.

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Application for Patent

Filed February 28, 1997

Serial No. 08/810,679

FOR: METHOD AND APPARATUS  
FOR COMPUTING WITHIN A WIDE AREA NETWORK

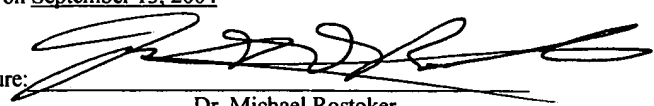
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REPLY BRIEF

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## I. INTRODUCTION

The Examiner repeats his positions as set forth during prior examination, while ignoring well established law and procedures. Applicant respectfully traverses the remarks and conclusions made in Examiner's Answer as set forth in greater detail below.

## II. REPLY TO EXAMINER'S PROVISIONAL DOUBLE PATENTING REMARKS

The Examiner's provisional double patenting rejection is entirely defective. First, the Examiner compares the combination of selected method limitations of claims 25 and 30 of the present application with selected apparatus limitations of canceled claim 1 of USSN 09/798,704 ("the '704 Application"). Second, he provisionally rejects all of the claims of the present application, i.e. claims 1 and 21-31 based upon his erroneous analogies. Since the comparison claim 1 of the '704 patent has been long canceled, there can be no double patenting issue with respect to that claim, and the entire logic for his rejection must fail. In addition, even if claim of the '704 patent was still pending, there would not be a double patenting issue because there are non-analogous and non-obvious limitations between the claims of the present application and the claims of the '704 Application. The Examiner should be reversed on this matter.

## III. REPLY TO EXAMINER'S STATEMENT OF 35 U.S.C. 103(A) REJECTIONS

### A. Remarks with respect to Claim 1

The Examiner has morphed the language of Applicant's claim to mislead the Board into believing that most of the element of Applicant's claim 1 can be found in Bartholomew. Claim 1 has been reproduced below to indicate where elements might be found in Bartholomew, and where the elements are clearly not found in Bartholomew:

1. A network accessible computer comprising:  
a central processing unit (**stipulated to be suggested by Bartholomew**);  
memory coupled to the central processing unit (**stipulated to be suggested by Bartholomew**); and

an interface coupling said central processing unit to a TCP/IP protocol network **(not found or suggested by Bartholomew, which is directed to computers coupled to a telephone (PBX) system);**

wherein said central processing unit implements a host computer program stored in said memory which permits it to operate as a network-accessible host computer for a client computer coupled to said TCP/IP protocol network **(not found or suggested by Bartholomew, which does not have a host computer program as recited or a TCP/IP network)**, wherein said client computer is operating a browser program **(not found or suggested by Bartholomew)** having a browser window and a client program transmitted to said client computer via said network **(not found or suggested by Bartholomew)** to operate in conjunction with said browser program **(not found or suggested by Bartholomew)** to communicate with said host computer program, wherein input devices of said client computers can be used to generate inputs to said host computer as if the input devices were connected to said host computer **(not found or suggested by Bartholomew)**, and such that image information generated by said host computer and sent in portions containing incremental changes can be viewed on a display of said client computer as if it was connected to said host computer **(not found or suggested by Bartholomew)**.

The Examiner further asserts that Bartholomew teaches “transmitting image (screen display) information changes to the client computer.” However, he ignores the limitation of “as if it was connected to the host computer,” i.e. such that the viewer were controlling the entire functionality of the computer. With Bartholomew, only a designated, transient application program (TAP) can be controlled by a user of a “conference PC” at the invitation of the user of the “application PC.” This has been fully explained in Applicant’s Brief, incorporated herein by reference.

The Examiner further states that “Bartholomew does not specifically disclose the system operating on a TCP/IP network and transmitting a client program to run in a browser at the client computer for communication with the host computer.” Applicant respectfully submits that Bartholomew also does not generally disclose or suggest such a combination and, in fact, teaches away from such a combination. This argument has also been set forth in Applicant’s brief, incorporated herein by reference. The Examiner then goes on to state that Frese cures the deficiencies of Bartholomew, stating that it would allow a user to use a downloaded JAVA applet for “remotely (sic) control the host computer.” However, it should be noted that Frese

only allows for the control of a limited, test application program for the purpose of promoting sales of the application program, not for remotely controlling a remote computer..

B. Remarks with respect to Claims 21-31

The Examiner then makes wholesale and unsupported rejections of the remaining claims. The Examiner dismisses claims 21-27 as, essentially, adding no more limitations to claim 1. With respect to claim 28, he indicates that it “would have been obvious ... to use encryption”, when the use of encryption would be contrary to the purposes of the systems of Bartholomew and Frese. The Examiner’s rejection of claim 29 that it “would have been obvious for one of ordinary skill in the art to transmit the image once per set time interval so as to control the screen update rate and prevent flooding the network” is an extreme example of unsupported hindsight by the Examiner. The statements made with respect to the remaining claims suffer from similar defects.

IV. REPLY TO EXAMINER’S RESPONSE TO ARGUMENTS

The Examiner again asserts that all of the claims should be provisionally rejected under the doctrine of obvious type double patenting in view of claim 1 of the ‘704 Application. As noted above, the ‘704 Application does not include a claim 1. Since the basis for the provisional rejection is undeniably erroneous, it should be withdrawn.

The Examiner acknowledges that neither Bartholomew nor Frese teach the taking over of the functionality of a host computer. This acknowledgement was supported by the Board in its decision with respect to the ‘704 Application, as set forth below:

**“... Frese specifically discloses a methodology which only allows limited control of a specified application program on a remote computer, rather than control over the remote computer itself. Therefore, it is questionable as to why the artisan would have sought to combine these references.” Decision of the Board of Patent Appeals and Interferences, Appeal No. 2003-0702, June 28, 2004**

Bartholomew, like Frese, only allows limited access to specific applications programs and does not permit the taking over of the functionality of a host computer by a client computer.

The Examiner argues that Applicant's claim does not specify that the functionality of the host computer is taken over by the client computer because those exact terms are not in the claim language. Applicant respectfully traverses, as set forth below.

As noted previously, a key differentiation between Applicant's claimed inventions of Group 1 (claims 1, 21, 23 and 24) and that of the combined disclosures of Bartholomew and Frese is that, for the first time, a client computer having nothing more than, for example, a Java-enabled browser can *take over virtually the entire functionality* of a host computer over, for example, the Internet. That is, this is not the remote control of merely an application program but, rather, a system wherein:

**... input devices of said client computers can be used to generate inputs to said host computer as if the input devices were connected to said host computer, and such that image information generated by said host computer and *sent in portions containing incremental changes* can be viewed on a display of said client computer as if it was connected to said host computer. Applicant's Claim 1, emphasis added.**

This concept of taking over virtually the entire functionality of the computer runs throughout Applicant's disclosure. *See*, for example,

**The present invention permits *virtually the entire functionality* of a computer system to be made accessible to a wide area network such as the Internet. More particularly, the present invention permits a computer system to be run as a "virtual machine" through a web page provided at a web site on the World Wide Web (WWW). This permits the computing functionality to be distributed across a wide area network, such as the Internet. Applicant's Specification, page 5, lines 27-28, *emphasis added*.**

*and further at*

**In FIG. 1, a system 10 for controlling a computer over a wide area network such as the Internet 12 includes a number of computer systems, such as computer systems ("machines") 14, 16, and 18, that are coupled to the Internet 12. By implementing the processes, apparatus, and systems of the present invention, one or more of the computer systems 14-18 can monitor**

**and/or access *virtually the entire functionality* of any other computers 14-18 connected to the Internet 12. It should also be noted that, for the most part, any reference to the Internet also would apply to a private Intranet that uses the Internet's TCP/IP protocols, or any other network that uses TCP/IP compatible protocols. Applicant's Specification, page 12, lines 17-25, *emphasis added.***

Because a user can take over virtually the entire functionality of a host computer, the experience of the user of the client machine is virtually no different than if he were sitting in front of the host computer and using the host computer's display, keyboard and/or mouse. Because of this, virtually all resources of the host computer are available to the user of the client computer, including the ability to open multiple windows, access the operating system commands, run multiple programs simultaneous, browse the Internet, etc., i.e. virtually anything that can be done with the host computer. This clearly supports and defines the claim limitations, e.g. the limitations of "as if it was connected to the host computer."

In stark contrast, both Bartholomew and Frese only allow for the remote control of a specified application program. Neither Bartholomew nor Frese can allow, or would allow, the virtually the entire functionality of the host computer system to be taken over. It is very clear that both Bartholomew and Frese will not allow full access to virtually the entire functionality of the host computer systems, allowing them to, for example, access the operating system or any program or utility that might be on or connected to the host computer.

The Examiner further indicates that Applicant's arguments with respect to claim 22 that the display of a web page in a browser window on a client machine that was generated on a host machine is not persuasive because 1) the limitation has a broader interpretation that reads on the prior art; and 2) the cited prior art apparently performs the limitations as argued. However, the Examiner provides no support for these statements. Bartholomew, the primary reference, being attached to a PBX, is incapable of generating web pages. Frese, which can only control a given test application program, cannot see web page information through its browser (only a limited view into the application program itself). These remarks of the Examiner are clearly not persuasive.

The Examiner repeated with respect to group 2, claims 25-27 that the claims do not cover the taking over virtually the entire functionality of the host computer. Applicant's rebuttal was set forth above, and will not be repeated here for the sake of brevity.

With regards to claim 28, the Examiner concludes that it would have been obvious to first combine Bartholomew and Frese, and then to add encryption. This logic is completely faulty. As noted in Applicant's Appeal Brief, Bartholomew and Frese both teach away from encryption. The arguments set forth in the Appeal Brief will not be repeated in their entirety, but will be summarized below for emphasis.

Encryption of information sent over an open network is used to prevent unauthorized persons from accessing confidential information. Bartholomew operates on a private branch exchange ("PBX") which is, by definition, creates a point-to-point connection between the two computers. As such, no one other than the user of the "host computer" and the "client computer" would have access to the video data, and there would be no need to encrypt the video data to maintain its confidentiality. In fact, since the video data is shared in Bartholomew between the computers on a real-time basis, the delays of encryption would teach away from encrypting the video data sent over the PBX of Bartholomew.

Frese operates over the Internet, which is public. However, Frese, would not want to encrypt the video information being sent over the Internet for at least two reasons: 1) it might encourage potential customers to use the test programs for actual, confidential work, rather than for the intended purpose of testing a special version of an application program to see if they might want to purchase the program; and 2) it would most certainly slow down the test process, making the potential customer less likely to be happy with, and less likely to purchase, the application program. There is absolutely no suggestion in Frese that encryption should be used for the video data, and the very purpose of Frese teaches away from encrypting the video data sent over the Internet.

With respect to group 3, claims 29-30, the Examiner again "hand waves" rather than provides a basis for his rejections. That is, he first admits that neither Bartholomew nor Frese "specifically disclose transmitting the screen information once a fixed period of time since



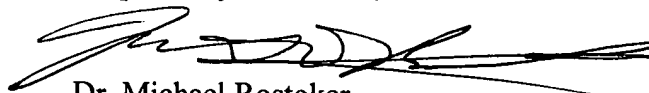
the previous transmission", yet nonetheless argues that it would be obvious because Bartholomew and Frese could have used "the fixed period and the transmit only when changes" to "limit the maximum update rate." This argument appears to have been pulled out of thin air and is also counter-intuitive in that if you are both sending incremental changes and sending at fixed periods of time you are increasing the update rate, not limiting it. As set forth in Applicant's Appeal Brief, Bartholomew and Frese both teach away from this limitation.

Finally, with regards to claim 31, the Examiner again concludes that adding the limitations of sending "events", "resolution", and "client interests" are obvious, without providing any prior art references or showing any support for his assertions. Furthermore, as Applicant points out in his Appeal Brief, none of these limitations have any application to the technology disclosed by Bartholomew. Screen resolution is not an issue, since Bartholomew is sharing an application program over a PBX to two presumably similar if not identical computer systems. Client interests are irrelevant, since this is a "push" system wherein the "host computer" initiates a program sharing with a "client computer." Frese fails to rectify the deficiencies of Bartholomew.

#### V. CONCLUSION

As noted, neither of the cited art references, either alone or in combination, can be said to render obvious the appealed claims. Accordingly, Applicant believes the rejections to be in error, and respectfully requests the Board of Appeals and Interferences to reverse the Examiner's rejections of the claims on appeal.

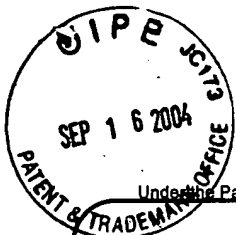
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Filing Date

02/28/97

First Named Inventor

HICKMAN

Art Unit

2153

Examiner Name

D. DINH

Attorney Docket Number

NEO1P016

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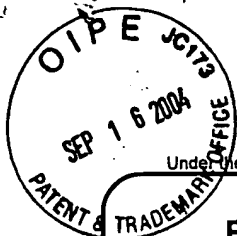
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| Filing Date            | 02/28/97                     |
| First Named Inventor   | Hickman                      |
| Title                  | M&A for Computer win-Wide Ar |
| Art Unit               | 2153                         |
| Examiner Name          | D. DINH                      |
| Attorney Docket Number | NEO1P014A                    |

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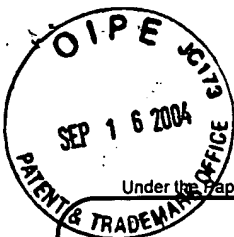
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| Filing Date            | 02/28/97                       |
| First Named Inventor   | Hickman                        |
| Title                  | M&A for Copyright w/in Wide Ar |
| Art Unit               | 2153                           |
| Examiner Name          | D. DINH                        |
| Attorney Docket Number | NEO1P014A                      |

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|-----------|--------------------|-----------|--------------|
| Name      | Michael Lane Gough |           |              |
| Signature |                    |           |              |
| Date      | 9/13/04            | Telephone | 831 336 2919 |

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